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OFFICE OF PETITIONS

In re Application of
BURBANK et al.
Application No. 09/929,371
Filed: August 13, 2001
Attorney Docket No. 9619-1001

DECISION ON PETITION

This is a decision on the petition filed February 10, 2003, requesting that the above-identified application be accorded a filing date of August 13, 2001, with pages 22-26 of the specification as part of the original disclosure.

On August 13, 2001, applicants filed the above-identified application. On November 12, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of August 13, 2001, and advising applicant that pages 22-26 of the specification appeared to have been omitted.

In response, on February 10, 2003, applicants filed the present petition, the petition fee, an associate power of attorney and change of correspondence address, and a copy of applicants' postcard receipt acknowledging receipt of "Original Non-provisional Application (27 pages, including 19 pgs. of description, 7 pgs. claims, and 1 pg. abstract, drawings 11 sheets)" on August 13, 2001. Additionally, applicants submitted pages 22-26 of the specification with the present petition.

In the present petition, applicants request that the application, including pages 22-26 of the specification, be accorded a filing date of August 13, 2001.

Upon review of the record, pages 22-26, deposited on August 13, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 13, 2001, included pages 22-26 of specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 22-26, was complete on filing and will be granted a filing date of August 13, 2001.

Accordingly, the petition is granted.

The Notice of November 12, 2002, was sent in error and is hereby vacated. Accordingly, the \$130.00 petition fee is unnecessary and will be credited to Deposit Account No. 13-0201.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 13, 2001, using pages 22-26 submitted with the present petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
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